UNITED STATES BORAX & CHEMICAL CORP.

IBLA 86-1653 Decided July 31, 1987

Appeal from a decision of the California State Office, Bureau of Land Management, declaring three lode mining claims null and void ab initio. CAMC 181011, CAMC 181012, CAMC 181022.

Set aside and remanded.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Determination of Validity -- Mining Claims: Recordation

A locator is not required to submit to BLM a precise description of the position of his claims. The test as to whether a recorded description is sufficient is whether the claim may in fact be found and identified by following the recorded description. Because the information provided to BLM is not required to be precise, the uses which may be made of it necessarily depend upon its relative accuracy. Information provided by a locator may be sufficient to meet the statutory requirement yet be insufficient to support a determination that the claim is null and void for being located on previously patented, withdrawn, or reserved land.

APPEARANCES: Michael H. Rauschkolb, Land Agent, Land Department, United States Borax & Chemical Corporation, Tucson, Arizona.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

The United States Borax & Chemical Corporation (US Borax) 1/ has appealed a decision of the California State Office, Bureau of Land Management (BLM), dated August 26, 1986, declaring three lode mining claims null and void ab initio. The reason stated by BLM for its decision was that the claims

1/ The decision on appeal was issued to Pacific Coast Mines, Inc., 3075 Wilshire Boulevard, Los Angeles, California 90010, the same name and address appearing on the location certificates. The envelope containing the appeal from US Borax bears a preprinted mailing label with the same address, but by rubber stamp it is deleted and a Tucson address substituted.

were located within sec. 16, T. 25 N., R. 4 E., San Bernardino Meridian, which had been conveyed to the State of California as school grant land.

In its notice of appeal US Borax points out that the location certificates for the claims describe them in relation to U.S. Land Monument #110 and argues that because the township is unsurveyed, the actual position of the claims in relation to section 16 is unknown. Appellant proposes that it be permitted to file amended location certificates, submitted with its notice of appeal, omitting reference to section 16 and cites Rasmussen Drilling Co. v. Kerr-McGee Nuclear Corp., 571 F.2d 1144 (10th Cir. 1978), in support of its request.

The mining claims at issue were located May 16 and 17, 1986, recorded with Inyo County Recorder June 24, 1986, and location notices were filed with BLM July 7, 1986. Their location certificates denominate them as S-29, S-30, and S-40. Each location certificate states that the claim is situated in "unsurveyed sec. 16, T. 25 N., R. 4 E., S.B.B. & M." As pointed out by appellant, each location certificate also describes the claim in relation to U.S. Land Monument #110.

Appellant's argument suggesting that any problem may be remedied by the "amended" location certificates it has submitted reflects a basic misunderstanding of the purposes of such documents. The requirement to record a location certificate is imposed by state law (Cal. Pub. Res. Code § 2313), and, other than satisfying the requirement, the primary effect of recording a location certificate is to give constructive notice of the claim. See Rasmussen Drilling Co. v. Kerr-McGee Nuclear Corp., supra at 1158. Locators of mining claims on Federal lands are also required to file copies of location certificates with BLM. 43 U.S.C. § 1744(b) (1982). One purpose of of this requirement is to provide Federal land managers with current information as to mining claims on Federal lands. United States v. Locke, 471 U.S. 84, 87 (1985); 43 CFR 3833.0-2; Ed Bilderback, 89 IBLA 263 (1985). Federal records of mining claims, however, are not official depositories of records of mining claims, and local records control the record title to mining claims. 43 CFR 3833.0-1(d). For this reason, the "amended" location certificates submitted by appellant cannot change the official description of the claims at issue unless they are recorded in the Inyo County recording office where the original claims were recorded. Cf. Rasmussen Drilling Co. v. Kerr-McGee Nuclear Corp., supra at 1150. We note, incidently, that the California statute calls for location certificates to include the section, township, range, and meridian within which each mining claim is located.

Only Federal lands may be located under the Federal mining laws. By the Act of March 3, 1853, Congress granted the State of California sections 16 and 36 of each township for the purpose of supporting public schools. Ch. 145, § 6, 10 Stat. 244, 246. Mineral lands were excluded from this grant. Id. However, by the Act of January 25, 1927, Congress removed the restriction as to mineral lands. Ch. 57, § 1, 44 Stat. 1026 (codified as amended at 43 U.S.C. §§ 870-871 (1982)). Full title to the land in school

sections did not pass to the State of California with either Act, but only upon approval of a survey of the section. See United States v. Wyoming, 331 U.S. 440, 443-44 (1947); West v. Standard Oil Co., 278 U.S. 200 (1929); Wyoming v. United States, 255 U.S. 489, 500 (1921).

In the present case, the master title plat contained in the case file denominates the township as partially surveyed, shows sections 16 and 36 to be surveyed, and indicates those sections were conveyed to the State of California on March 19, 1858. Thereafter, no rights to land in section 16 could be acquired under the Federal mining laws. Accordingly, the issue in this appeal is whether the claims were in fact located wholly within section 16. Based on information provided by appellant when filing its mining claim recordation documents, BLM concluded that the claims were within section 16 and were therefore null and void ab initio.

[1] The Board reviewed the statutes and regulations requiring mineral locators to submit to BLM descriptions of the positions of their claims in Arley Taylor, 90 IBLA 313 (1986). There we concluded that neither the statutes nor regulations require a locator to submit a precise description of the position of his claims; rather the test as to whether a recorded description is sufficient is "whether the claim may in fact be found and identified by following the recorded description." Id. at 316-17. We further stated that because the information provided BLM by a locator is not required to be precise, "[t]he uses which may be made of [the] information submitted necessarily depend upon its relative accuracy." Id. at 317. See also Outline Oil Corp., 95 IBLA 255, 259 (1987); Leslie Corriea, 93 IBLA 346 (1986). The Board has also found that a description may be so deficient that it is insufficient as a matter of law. See Outline Oil Corp., supra at 259; Joe Ostrenger, 94 IBLA 229, 233 (1986).

In the present case, appellant's location certificates stated that the three claims in issue were located within section 16. In addition, as required by regulation (43 CFR 3833.1-2(b)(5)), on the same date appellant's location certificates were filed with BLM, appellant filed a map which shows the three claims to form part of the top tier of a block of 77 claims. The map appears to be adapted from an enlarged photocopy of a portion of the Geological Survey topographical map "Ryan, Calif.-Nev." Added to the map are red pencil marks indicating the position of the section lines BLM used in making its decision and the claims which it concluded lie within section 16. Examining the size of the claims depicted in relation to the distance between section lines, we note that the sizes of the claims approximate the scale of the map. The end lines of a column of nine claims fills the distance between the northern and southern boundaries of section 21. 2/ Assuming the

2/ A group of claims 10 claims wide with each claim described as being 600 feet wide can fit in a 1 mile space if the claims on each end are fractions described as 600 feet wide.

endline of each claim in the column is 600 feet and the section is of regular size, the distance of 5,400 feet occupied by the width of the claims is shown on the map as covering 5,280 feet.

Although the map submitted by appellant is considerably more accurate than those submitted by many locators, see, e.g., Charles Renfro, 96 IBLA 311, 312 (1987), because the claims at issue are near the border of section 16, we do not believe the map is sufficiently precise to support BLM's decision. We do not doubt that several of appellant's claims either occupy or extend onto land in section 16. Determining which claims fall into which category, however, is considerably more difficult. The map shows the southerly sidelines of claims S-39, S-40, S-29, and S-30 to correspond to the line between sections 16 and 21. If accurate, claims S-40 and S-29 lie entirely within section 16 and the other two overlap at least in part. Similarly, if the order of location of the block of claims were that indicated by their numerical sequence, the southerly boundary of the top tier of claims might be some distance north of the section line of section 16 and the next tier of claims might extend into section 16. However, a different order of location, or a placement of the corners of the first-located claims somewhat differently from that depicted by the map, could cause the top tier of claims to merely overlap onto land in section 16. 3/ If such is the case, none of the claims are null and void ab initio. See Santa Fe Mining, Inc., 79 IBLA 48 (1984). Accordingly, we cannot conclude on the basis of the present record that any of appellant's claims lie entirely within section 16. In addition, the red pencil marks made by BLM to indicate section lines also appear to incorrectly position the north-south boundary dividing sections 16 and 17 and sections 20 and 21. 4/

Because the position of appellant's claims, as stated in the location certificates and portrayed by the map, is not sufficiently precise to be conclusive as to the claims' positions on the ground, we cannot sustain BLM's findings and conclusion that the claims at issue were null and void ab initio. As indicated in Arley Taylor, supra at 318, ultimately the uncertainty as to the position of appellant's claims can be resolved only by establishing their actual position on the ground. A field investigation could ascertain the relation of one or more boundaries of the claims to U.S. Land Monument #110, a monument corner of section 16, or some other land survey monument. If for administrative reasons BLM does not wish to undertake such field work, US Borax may wish to do so. The fact the company's claims remain on file with BLM does not give the company any rights it did not obtain by virtue of its locations and, in particular, does not give it any rights to land in section 16.

3/ It may well be that the greatest portion of the 600 by 1,500 foot claims lies in section 16. In such case the natural tendency would be to identify the claim as being in that section.

4/ The master title plat also shows land within section 21 to have been the subject of Mineral Survey 6811. The surveyed mining claim appears not to have been taken to patent.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and remanded.

Franklin D. Arness
Administrative Judge

We concur:

John H. Kelly
Administrative Judge

R. W. Mullen
Administrative Judge